

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6338

BILL NUMBER: SB 358

DATE PREPARED: Mar 1, 2001

BILL AMENDED: Mar 1, 2001

SUBJECT: Enhanced Penalties for Repeat Offenders.

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**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) This bill limits the types of felonies for which the state may seek to have a person sentenced as a habitual offender. It allows a habitual offender charge to be based on prior crimes even if the penalty for the crimes was enhanced under another law.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This bill would make sentencing statutes conform to recent state Supreme Court decisions concerning the use of habitual criminal offender sentences. **Consequently, little change in sentencing patterns is likely to occur.**

Current statute requires criminal defendants to be sentenced for additional imprisonment if the defendant has committed a third unrelated felony. This bill provides exceptions in cases where defendants have been convicted of: 1) an offense which is a misdemeanor that is chargeable as a felony solely because the person had a prior unrelated conviction; 2) either driving with a temporarily suspended or permanently forfeited driver's license; or 3) cases where the state is seeking an additional term of imprisonment in the case of habitual substance abusers.

Current law lists 12 offenses where a misdemeanor can be enhanced to a felony if the defendant has had a prior unrelated conviction. These offenses include domestic battery, criminal trespass, dealing in altered property, welfare fraud, intimidation, public indecency, prostitution, patronizing a prostitute, cruelty to an animal, carrying a handgun without a license, obtaining a handgun with a false license, and dangerous possession of a firearm. As proposed, defendants who are convicted of any of these offenses will not be eligible for the additional habitual offender enhancement if any of these are the third unrelated offense that the defendant has been found guilty of committing.

Under current law, offenders with two prior unrelated felony convictions are required to serve an additional

sentence if they are convicted of a third prior unrelated felony. This third felony is called the underlying offense. The minimum sentence is not less than the presumptive sentence for the underlying offense. The maximum sentence is the lesser of either three times the presumptive sentence or 30 years. (IC 30-50-2-8(e)).

The following table shows the minimum and maximum enhanced sentences under current law.

Felony	Added Sentence for Third Felony Under Habitual Offender Statute	
	Minimum Sentence	Maximum Enhanced Sentence
Class D	1.5 years	4.5 years
Class C	4 years	12 years
Class B	10 years	30 years
Class A	30 years	30 years

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts.

Information Sources: IC 35-50-2-8; Steven Johnson, Indiana Prosecuting Attorneys Council.